

Page 9, Line 1, after "handle" and before "and", delete "80" and insert -- 112 -- in its place.

Page 10, Line 1, after "unit" and before "maintains", delete "78" insert -- 18 -- in its place.

Line 5, after "has" and before "an", insert -- a refrigerant conduit in the form of --.

IN THE CLAIMS:

Please amend claims 1 3, 5, 7, 10, 11 16, 17, 18, 22 and 23 as follows:

1. (amended) A merchandiser for holding food, said merchandiser having
a front and back and sides and comprising: first walls located around a first compartment
such that the first compartment is closed along its front, back, sides, and bottom, but
opens upwardly; second walls completely enclosing a second compartment that is located
above and spaced from the open top of the first compartment, such that the first
compartment is accessible beneath the second compartment at both the front and the back
of the merchandiser, at least one of the second walls being movable with respect to others
of the second walls to provide access to the second compartment, at least one of the
second walls being transparent to permit observation of food in the second compartment;
a refrigeration unit for cooling the first compartment; and a heating unit for heating the
air that is in the second compartment.

A² 6. (amended) A merchandiser according to claim [2] 1 wherein one of the second wall extends horizontally below the second compartment where it serves as a shelf that isolates the second compartment from the first compartment.

A³ 8. (amended) A merchandiser according to claim [4] 3 wherein among the second walls are side walls which rise upwardly from walls of the first compartment and close the sides of the second compartment.

A⁴ 12. (amended) A merchandiser according to claim 6 wherein the second walls include a housing supported on the posts[,] ; and wherein the heating unit includes a fan [is] located in the housing for withdrawing air from the second compartment and discharging it back into the compartment[,] and [wherein] a heating element [is] located in the housing beyond the fan and in the path of the air discharged from the fan.

A⁵ 10. (amended) A merchandiser according to claim 2 wherein one [fo] ^{me} of the second walls extends across the top of the second compartment where it forms a housing that encloses a plenum, the housing containing an intake opening and at least one discharge opening spaced from the intake opening; and wherein the heating unit includes a fan located in the plenum to draw air from the second compartment into the plenum through the intake opening and to direct it to the discharge opening through which it is discharged into the second compartment, and a heating element located in the plenum for heating the air in the plenum.

A⁶ 11. (amended) A merchandiser for displaying foods, said merchandiser comprising a cold pan having vertical walls that surround a cold compartment and a bottom wall connected to the vertical walls and extending across the bottom of the cold compartment; a closure assembly located above the cold pan and including spaced apart

side walls rising upwardly from the cold pan[:], a shelf supported on the side walls above the cold compartment and spaced from the cold pan [:], a housing supported on the side walls above the shelf and enclosing a plenum, the housing containing an inlet and an outlet opening[:], a front wall and a back wall extending between the side walls and between the shelf and housing, so that the front and back walls together with the shelf, the housing and the side walls enclose a warm compartment into which the openings in the housing open, at least one of the front and back walls being movable to provide access to the warm compartment; [and] a heating unit including a fan located in the plenum of the housing for withdrawing air from the warm compartment through the inlet opening and discharging it back into the warm compartment through the outlet opening, and a heating element located in the plenum for heating the air as it passes through the plenum; and a refrigeration unit having conduits located along at least some of the walls of the cold pan.

24/16. (amended) A merchandiser according to claim [15] ~~24~~ wherein the back wall of the closure assembly moves and is hinged with respect to the side walls.

14/17. (amended) A merchandiser according to claim ~~17~~ wherein the inlet opening of the housing is located generally midway between the ends of the housing and opens downwardly into the warm compartment[,]; wherein the outlet [opening] openings are on both sides of the inlet opening and open downwardly into the warm compartment; wherein two heating elements are located in the housing on each side of the inlet opening[,]; and wherein the fan is located at the inlet [openings] opening.

3/
18.

(amended) In combination with a counter having a countertop provided with an opening, a merchandiser supported on the counter for displaying foods, said merchandiser comprising a cold pan located generally within the counter and opening upwardly out of the countertop at the opening in the countertop; side walls rising upwardly above the [counter top] countertop; a shelf supported by the side walls above and spaced from the cold pan, a housing supported by the side walls above the shelf and enclosing a plenum, the housing having inlet and outlet openings, front and back walls extending between the shelf and housing and between the side walls so that the front and back walls together with the housing, shelf and side walls enclose a warm compartment; [and] a heating element in the plenum of the housing for elevating the temperature of air that passes into the plenum at the inlet opening, thence through the plenum, and then out the plenum at the outlet opening; and a conduit located along at least one wall of the cold pan for containing a fluid at a temperature below that of the cold pan.

22.
22.



(amended) The combination according to [21] ~~22~~ wherein the back wall pivots about an axis that is fixed with respect to the side walls.



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23.

(amended) The combination according to claim 18 wherein the cold pan has vertical walls and a bottom wall at the lower ends of the vertical walls; and further comprising a refrigeration unit located within the counter and including an evaporator coil located along at least one of the walls of the cold pan, the evaporator coil forming the conduit.

Cancel claims 2, 4, 12, 15, and 21 without prejudice and without admitting anticipation.

Please add the following new claims 24, 25, 26, 27, 28, 29 and 30:

24.  (Original claim 15 in independent condition – includes the limitations of former claims 11, 13, 14 and ) A merchandiser for displaying foods, said merchandiser comprising a cold pan having vertical walls that surround a cold compartment and a bottom wall connected to the vertical walls and extending across the bottom of the cold compartment; a closure assembly located above the cold pan and including spaced apart side walls rising upwardly from the cold pan; the side walls including posts which extend upwardly from the cold pan and transparent panels through which one can observe the cold compartment; a shelf supported on the side walls above the cold compartment and spaced from the cold pan, a housing attached to the posts of the side walls and supported on the side walls above the shelf to enclose a plenum, the housing containing an inlet and an outlet opening; a transparent front wall and a back wall extending between the side walls and between the shelf and housing, so that the front and back walls together with the shelf, the housing and the side walls enclose a warm compartment into which the openings in the housing open, the front wall being movable to provide access to the warm compartment and being hinged near its top, so that when moved, it pivots upwardly; and a heating unit including a fan located in the plenum of the housing for withdrawing air from the warm compartment through the inlet opening and discharging it back into the warm compartment through the outlet opening and a heating element located in the plenum for heating the air as it passes through the plenum.

Claim 28.  (Original claim 21 in independent condition – includes the limitations of former claims 18, 19, 20 and ) In combination with a counter having a

countertop provided with an opening, a merchandiser supported on the counter for displaying foods, said merchandiser comprising a cold pan located generally within the counter and opening out of the countertop at the opening in the countertop; side walls attached to the cold pan and rising upwardly above the countertop, the side walls including transparent panels and posts; a shelf supported by the side walls above the cold pan; a housing attached to the posts of the side walls and supported by the side walls above the shelf to enclose a plenum, the housing having inlet and outlet openings; front and back walls extending between the shelf and housing and between the side walls, so that the front and back walls together with the housing, shelf and side walls enclose a warm compartment, the front wall being pivotal about an axis that is fixed with respect to the side walls; and a heating element in the plenum of the housing for elevating the temperature of air that passes into the plenum at the inlet opening thence through the plenum, and then out the plenum at the outlet opening.

¹⁰
Claim ~~26~~. A merchandiser according to claim ~~8~~ wherein the side walls are transparent, and further comprising lamps located along the surfaces of the side walls that are presented away from the compartments, whereby the lamps illuminate the compartments through the side walls.

²⁰
Claim ~~27~~. A merchandiser according to claim ~~14~~ and further comprising lamps located along the surfaces of the side walls that are presented away from the compartments, whereby the lamps illuminate the compartments through the side walls.

¹⁶
Claim ~~28~~. A merchandiser according to claim ~~11~~ wherein the vertical walls of the cold pan include side walls and front and back walls extended between the side walls;